

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATION AND ENERGY

Complaint of DSCI Corporation for
Declaratory Orders to Ensure Verizon-
Massachusetts Compliance with Resale
Obligations with Respect to Customer
Specific Pricing Contracts

MOTION FOR CONFIDENTIAL TREATMENT

Verizon Massachusetts files this motion seeking confidential treatment for its response to Record Request DTE/VZ 4. On June 27, 2005, the Massachusetts Department of Telecommunications and Energy (“Department”) issued a data request to Verizon in which it sought information regarding the identity of the only other competitive local exchange carrier (“CLEC”) (other than DSCI), that has requested CSP terms and conditions for resale from Verizon, as well as information regarding the circumstances and ultimate disposition of that request.. DTE 1-1. Verizon declined to answer that request on grounds that “[t]he identity of the CLEC, the location, the course of negotiations and the ultimate outcome are considered proprietary and competitively sensitive, and are subject to a non-disclosure agreement.” Verizon’s Response to DTE 1-1 (July 6, 2005). Subsequently, at the hearing in this case on July 26, 2005, the Hearing Officer again requested that Verizon provide the Department with the information requested in DTE 1-1. Tr. 07/26/05, at 99. However, the DTE asked that it be filed as a proprietary document with the DTE only, and that Verizon file an accompanying motion for confidential treatment. *Id.* at 99-100. In accordance with G.L. c. 25, § 5D, Verizon

requests that the Department treat its proprietary response to Record Request DTE/VZ 4 as confidential and that it refrain from placing any portion of that response in the public record or otherwise making that information available for public review.

ARGUMENT

Under Massachusetts General Laws c. 25, § 5D, the Department is empowered to protect from public disclosure trade secrets or other proprietary information that is produced in the course of Department proceedings. The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), *codified at* 47 U.S.C. §§ 151 *et seq.*, also provides further protection for the confidential and proprietary information of telecommunications customers and carriers. *See* 47 U.S.C. § 222. Among other things, § 222 protects both customer proprietary network information and the confidentiality of proprietary carrier data.¹

¹ Section 222(f)(1) defines “customer proprietary network information” in relevant part as:

- (A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and
- (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier.

In addition, §§ 222(a) and (b) provide:

- (a) IN GENERAL – Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.
- (b) CONFIDENTIALITY OF CARRIER INFORMATION – A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

The information filed by Verizon in response to the Record Request DTE/VZ 4 consists of confidential information regarding Verizon's course of dealings with a specific CLEC as well as the manner in which that carrier serves its customers. This information is competitively sensitive, potentially beneficial to competitors of Verizon as well as that CLEC, and both parties have taken reasonable steps to insure that this information does not generally become part of the public domain by entering into a non-disclosure agreement that prohibits the disclosure of this information by one party without the consent of the other.² Moreover, the public interest will not be impacted by the continued maintenance of the information at issue as confidential.

CONCLUSION

WHEREFORE, Verizon respectfully requests that the Department should exercise its authority under G.L. c. 25, § 5D to afford the information provided by Verizon in its proprietary response to Record Request DTE/VZ 4 continued protection from public disclosure in this proceeding and that its distribution be limited to the Department only.

Respectfully submitted,

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² Verizon has secured the CLEC's assent to disclose the proprietary information contained in Verizon's response to Record Request DTE/VZ 4 to the Department.

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